CORPORATE OWNERSHIP MATTERS:

THE CASE OF NBC

By Jim Naureckas

One pundit who had no problem with the summer's media merger marathon was **USA Today** columnist Michael Gartner. "It makes no difference if media are owned by corporations or families or individuals," he wrote (8/8/95). "What matters are the integrity and intelligence and intrepidness of those owners."

Gartner wrote from experience: "For five years, I was president of **NBC** News, which is owned by General Electric," he said. "Not once did GE boss Jack Welch or anyone else at GE ask me to put something on the air—or not to.... Jack Welch, tough and some say ruthless, does not use **NBC** to further the gains of GE."

Gartner should recall the warning of the dean of American press criticism, George Seldes, who wrote in 1938: "The most stupid boast in the history of present-day journalism is that of the writer who says, 'I have never been given orders; I am free to do as I like.'"

Seldes' point was that it is those who are likely to do something the boss doesn't like who get told what to do; those who naturally do what the boss wants need no such direction.

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Larry Grossman, Gartner's predecessor, was told in no uncertain terms what GE expected from him. "You work for GE!" Welch once shouted at his subordinate, poking a finger at Grossman's chest (Ken Auletta, *Three Blind Mice*).

Welch told Grossman not to use phrases like "Black Monday" to describe the 1987 stock market crash, because it was depressing the price of blue chip stocks like GE. And he warned the **NBC News** chief, "Don't bend over backwards to go after us just because we own you." Welch even told Grossman to allow **Today** show weather forecaster Willard Scott to keep plugging GE light bulbs (Lawrence Grossman, *The Electronic Republic*; **Electronic Media**, 11/11/91).

Gartner, on the other hand, reportedly had a knack for knowing what the boss wanted. "Michael Gartner, the bow-tied newspaperman from Iowa, did what his bosses at **NBC-TV** and its parent, General Electric Co., hired him to do nearly five years ago," the **Chicago Tribune** reported after Gartner lost his job following **NBC**'s fake-explosion fiasco (3/3/93): "He slashed staff and services and stopped the red ink from flowing at **NBC News**."

Under Gartner, according to the **Cleveland Plain Dealer** (3/3/93), "Corporate standards were more important than journalistic standards." TV insiders cited this as the reason Gartner held onto his job for so long, despite the general decline of **NBC News** during his tenure: "He basically survived because GE liked him," one TV executive told the **Chicago Tribune** (3/3/93); "Corporate loves him," another said to the **Sacramento Bee** (2/15/93). "He's a bottom-line guy."

Most people who work for large corporations understand without being told that there are things you should and should not do. The **Today** show producer who declined to include an anti-GE campaign in a segment on consumer boycotts probably wasn't thinking of an official memorandum when she said, "We can't do that one. Well, we could do that one, but we won't." (*EXTRA!*, 1-2/91)

Nor did **Today** likely get an order from GE headquarters—or from Gartner—before censoring references to GE in a story on defective bolts used in airplanes and other equipment (**Today**, 11/30/89). The executive at **SuperChannel**, **NBC**'s European cable channel, probably wasn't told to cancel the human rights show **Rights & Wrongs** after it examined the poor working conditions at GE plants in Mexico (*EXTRA! Update*, 8/94).

But such decisions, big and little, are made constantly when a large, diversified corporation is the owner of a news outlet. Despite Michael Gartner's claim, a corporate owner is fundamentally different from an individual or family owner. An individually owned news outlet may be good or bad, but if the owners want to, they can decide to pursue quality journalism even if such decisions hurt their bottom line.

The management of a corporate news outlet does not have that luxury. *By law*, management must not allow other considerations (like journalistic ethics or the public interest) to stand in the way of profits—otherwise it would be abandoning its fiduciary responsibility to its stockholders, and would be subject to a lawsuit.

Representatives of corporations will say that good journalism is good business, and so there is no conflict. It is true that a news outlet's credibility is one of its assets, which can be eroded by blatantly biased reporting. But to corporate owners, the value of that asset may be far outweighed by the gains to be made by using their media to promote their other lines of business. As news operations become smaller and smaller parts of ever larger conglomerates, that tradeoff will become more profitable—and news decisions will more often be subordinated to corporate strategies.

"You can't generalize about owners," Gartner told **USA Today**'s readers. "For the structure of ownership is immaterial. It's the individuals that matter."

To the contrary: In the structure of today's media, individuals matter less and less. ❑

THE INTERCONNECTED WORLD OF THE CABLE OLIGOPOLY

Cable TV was presented to the public as a breakthrough in communications technology that would break the monopoly of the big three TV networks and provide dozens of new channels representing diverse interests and viewpoints.

We've got the dozens of channels, all right—but most of them are owned by an interlocking set of a half-dozen or so giant corporations.

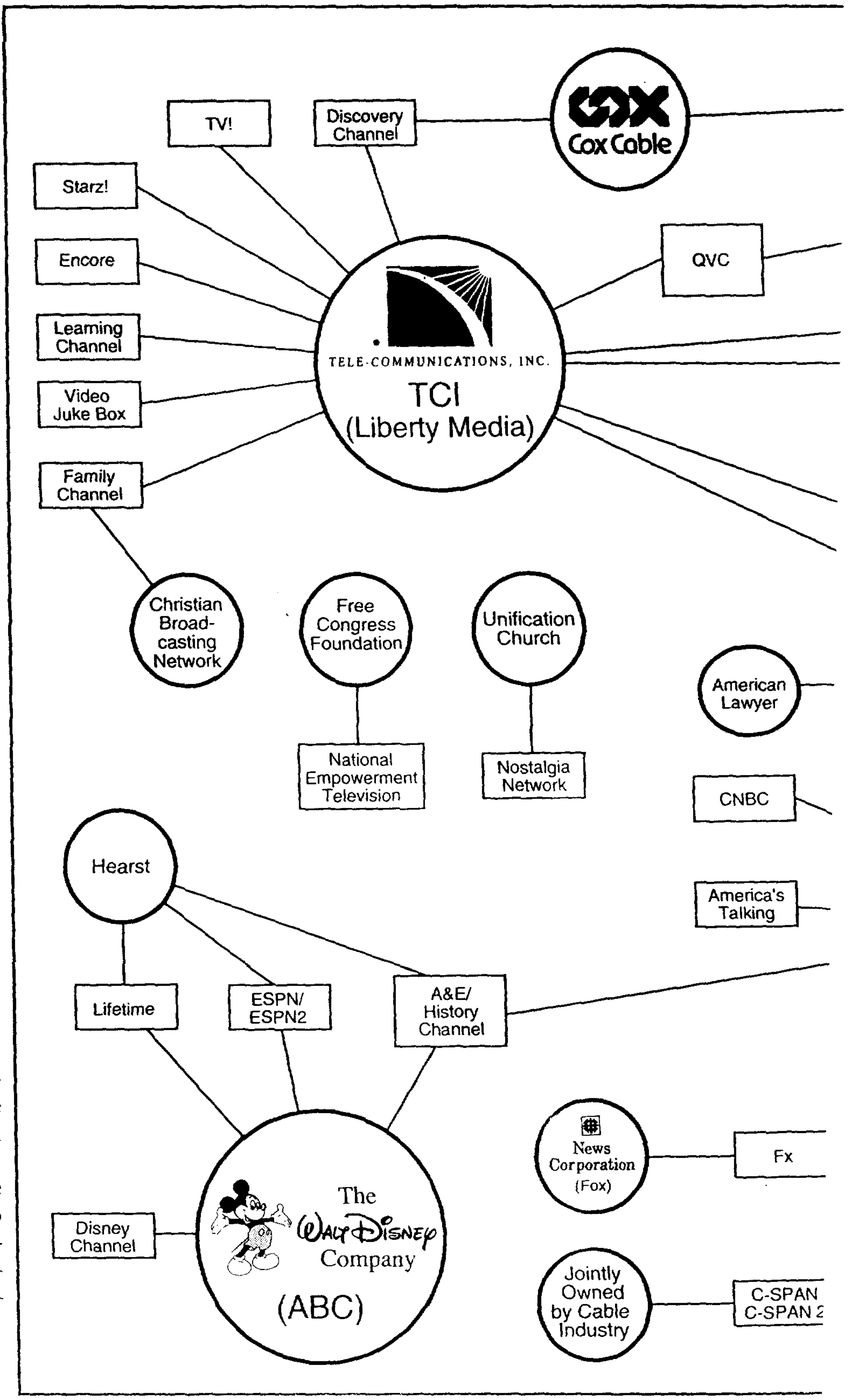
The accompanying chart shows the major players in the field of cable programming (names in circles), connected to the cable channels (names in rectangles) that they own, either wholly or in part. The arrows connect corporate owners that own stakes in other corporate owners.

Besides illustrating that the major cable systems operators and programmers are in fact business partners with their supposed competitors, the chart also suggests one of the facts of life of the cable business: It's almost impossible to get a new channel carried on major cable systems without offering those systems a piece of the action. (Multimedia's **News Talk TV**, for example, got carriage on TCI systems after it agreed to run **Damn Right!**, **TCI**'s right-wing variety show—**Multichannel News**, 8/21/95.)

For reasons of space, not every cable channel is included in this chart; the channels that TCI alone has interests in add up to several dozen. But almost all the significant national cable channels are included, and the scarcity of independent voices does reflect the medium as a whole. Those channels that aren't financially connected to the cable industry usually have a well-funded, often right-wing sponsor—like Rev. Moon's Unification Church or Paul Weyrich's Free Congress Foundation.

Note that this chart assumes that the mergers proposed this summer will go through—unfortunately, a plausible assumption, given the lack of any commitment to antitrust regulation in Washington these days. ❑

Research: Angela Littwin
Chart Layout: Dan Shadoan

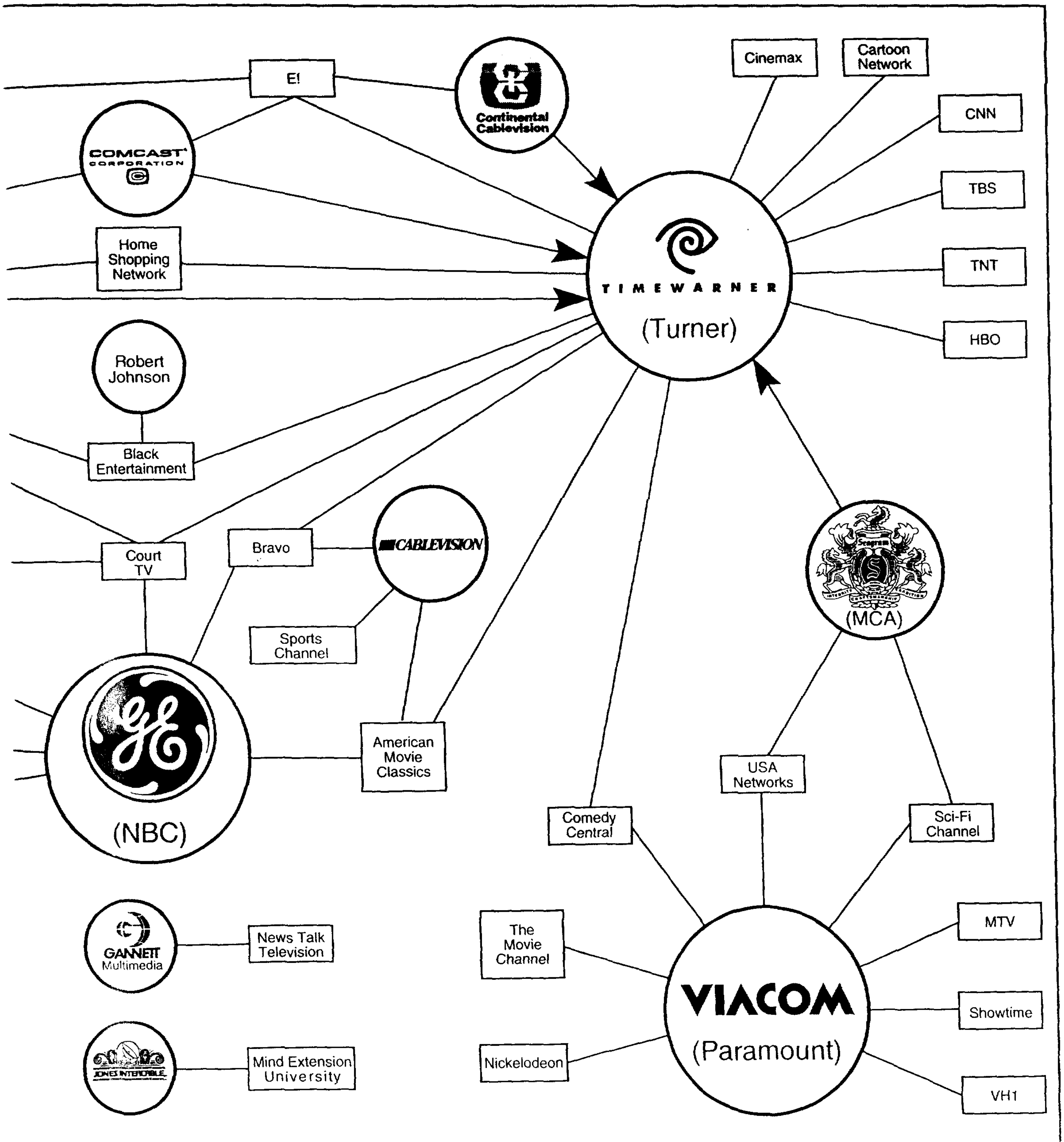


THE 10 BIGGEST CABLE SYSTEM OPERATORS

(Number of Subscribers, in Millions)

Tele-Communications Inc.	14.0
Time-Warner	11.0
Cox Communications	3.2
Continental Cablevision	3.1
Comcast Corp.	3.0
Cablevision Systems	2.6
Adelphia Communications	1.5
Jones Intercable	1.3
Falcon Cable TV	1.1
Century Communications	1.1

Source: **Mediaweek**, 7/31/95



CITIZEN MURDOCH

THE SHAPE OF THINGS TO COME?

By Sasha Abramsky

Thanks to media concentration, Murdoch has—and uses—the power to make British politicians, and to break them unless they toe his line.


© Jay Mallin/Impact Visuals

To see what might happen if the current U.S. Congress succeeds in eviscerating the antitrust laws and restrictions on media cross-ownership, one need only look to what Rupert Murdoch has been able to accomplish in Britain—where such protections have long been weaker and, in practice, often non-existent, as regulations theoretically limiting monopolies have gone unenforced.

Murdoch's Australian-based News Corporation, worth an estimated $20 billion and with annual revenues of some $8 billion, is the widest-reaching media empire in the world. He controls two-thirds of the newspaper readership in Australia, and his satellite interests reach into 53 countries. Here in the U.S., such outlets as **TV Guide**, the **New York Post**, **Fox TV** and HarperCollins (publishers of Newt Gingrich's latest book) provide him with huge clout and influence.

Murdoch's power has been most crucial in Britain, however. He has taken over three of the largest daily national newspapers (including the prestigious London **Times**) and two of the most widely read Sunday papers. Out of a total newspaper readership of approximately 40 million, well over a third get their news from Murdoch.

He controls the entire satellite broadcasting system, having bought out his one serious rival. In the words of the Glasgow **Herald** (5/24/95), "The government...has allowed Murdoch to obtain a position that no media baron has ever enjoyed."

Grateful Conservatives

Thanks to media concentration, Murdoch has—and uses—the power to make British politicians, and to break them unless they toe his line. Murdoch papers such as the **Sun**, when not peddling soft porn and gossip, have consistently opposed the peace movement, trade unions, progressive social programs and (during the 1980s) sanctions against apartheid South Africa, while supporting the death penalty, lower taxes at any cost and hawkish foreign policies.

The politician who owes the most to Murdoch is the Conservative prime minister from 1979-1990, Margaret Thatcher, who continually received a glowing press from the Murdoch operation, even by the overtly partisan standards of the British media.

Thatcher rode to power in 1979 on a barrage of Murdochian headlines blasting Jim Callaghan's Labour government for landing the country in a "Winter of Discontent." Indeed, then-**Sun** editor Larry Lamb reportedly boasted of Thatcher "that he made her prime minister in 1979 and that she was properly grateful." (Glasgow **Herald**, 5/24/95)

She certainly was: Thanks to Thatcher, Murdoch is one of the few non-Brits to be granted a knighthood—along with Sir Ronald Reagan and Sir Norman Schwarzkopf. A slew of ex-Murdoch editors have also been showered with titles. After Thatcher was booted from office by her own MPs, she received a lucrative contract from HarperCollins to write her memoirs, which Murdoch-watchers point to as a precedent for the $4.5 million offer to Gingrich.

In 1992, with Conservative John Major as the incumbent prime minister, and opinion polls showing Neil Kinnock's Labour Party poised to win a narrow victory in the general election of April 9, the Murdoch press went all out to scare voters away from the firmly centrist, post-radical Labour Party. Labour, they claimed, would raise taxes to record highs, scare investors away, cause a run on the pound and sacrifice Britain's vital constitutional interests to a faceless, bureaucratic European Parliament.

On the morning of the election, with most polls predicting a hung Parliament with Labour as the largest party, the **Sun** ran a front-page picture of Kinnock's head inside a lightbulb. The full-page headline: "If this man wins, the last one out turn off the lights." The Tories won a fourth term. While many factors are responsible for this outcome, the Murdoch press' hysterical coverage certainly played some role in preserving the Tory government.

Not content with this record, the Murdoch press later turned on the octogenarian Michael Foot, who had led the Labour Party in the early 1980s, claiming they had proof he had been a KGB agent known as "Agent Boot." (**Sunday Times**, 2/19/95) Foot, who had always advocated a neutralist socialism, promptly sued—not just the paper concerned, but Murdoch personally. Immediately, the case was settled out of court; undisclosed (but large) damages were awarded Foot in July.

Breaking Labor

Murdoch's war against the Labour Party and trade union interests in general had started in Britain as far back as the early 1980s, when he set off a strike at the newly acquired **Times** paper after sacking its liberal-minded editor, Harold Evans. For the better part of a year, the bitter dispute racked Fleet Street. But Murdoch prides himself on never losing such battles. The paper was printed with scab writers and production teams, and eventually the journalists were forced back to work at the newly rabid-right **Times**—minus Evans and many of the better scribes.

Five years later, at the height of the Thatcher government's attacks on organized labor, Murdoch's media operations, including the 4 million-selling **Sun**, shifted their printing process to a non-union plant in East London's Wapping district. Again, a violent strike, in which police cleared the way for union-busting truck drivers, resulted in a complete victory for Murdoch. "Fortress Wapping," as it was rapidly labeled, became a downsized, non-union model emulated by other newspaper tycoons worldwide.

Not surprisingly, given Murdoch's business practices and political bent, most Labour politicians have boycotted anything connected to News Corp. But no longer. In an astonishing illustration of the need politicians feel to stay in the tycoon's good books, the "Clintonesque" Labour leader Tony Blair has begun a courtship with The Man himself.

In July, Murdoch flew the Labour leader out to an Australian island resort to engage in several days of dialogue. Blair, who has spent much of the past few months praising large parts of Thatcher's agenda, has begun writing a series of opinion pieces for the Murdoch papers.

Blair's opportunistic motives are clear enough: He knows that one of the few things standing between him and 10 Downing Street could be a hostile Murdoch press. But why would Murdoch abandon his traditional allegiances to the Conservatives?

Murdoch's Ambition

In part, Murdoch expects that the Tories will lose the next election, which has to be held sometime before the summer of 1997, and doesn't want his agenda and empire exclusively tied to an out-of-power political organization. But Blair's ascension is likely not least because News Corp. has turned on Major over the last couple of years.

And that comes back, as things usually do with Murdoch, to his personal ambitions. Murdoch's campaign against Major—which culminated in a hyena-chorus urging the Tory Party to strip the prime minister of his party's leadership—was largely designed to pressure the government to kill a bill that would limit cross-ownership in the British media.

While current laws allow virtually unlimited ownership within each sector of the media, and in practice have allowed Murdoch to develop unlimited cross-ownership without the intervention of the Monopolies and Mergers Commission, a bill proposed by the government would relax the already loose laws on cross-ownership, while limiting the total overall percentage of the media that any one company could own. A limit of 12 percent ownership of the total U.K. media market and 20 percent of any of the regional markets would be allowed for any single person or organization.

Thus many of Murdoch's rivals would be able to expand into radio and television ownership, while Murdoch, who already owns well over 12 percent of the British media, might actually be forced to sell some of his holdings. According to **Free Press** (7-8/95), the publication of Britain's Campaign for Press and Broadcasting Freedom, "The government's proposals have unleashed the wrath of Murdoch, who because of his dominance in national newspapers is unable to take over ITV [independent television] stations."

Murdoch, who has long played a key role in influencing Tory Party policy on the media, is unwilling to now play the role of passive spectator. He loves power, and relishes his role of kingmaker. Far from sitting by as his megalomaniacal dreams are squashed, Murdoch envisages that he will one day exert near-monopolistic control over the British press. In fact, he recently stated that he envisions a national newspaper market with only three daily papers, two of which he happens to own.

To further this aim, Murdoch has spent the last year bankrolling a ferocious price war designed to drive the **Independent**, one of Britain's best and most fearless newspapers, out of business. While News Corp. could (and has) offset huge losses generated by virtually halving the sale price of the **Times**, the **Independent** has been pushed to the edge of bankruptcy, laying off more than a quarter of its staff in the past year.

Murdoch has already won a victory of sorts: The **Independent**, which previously was employee-owned, has been bought out by the Mirror Company, publisher of the **Daily Mirror**—ensuring that if Murdoch can't kill the **Independent**, he can at least kill independent publishing. ❑

Sasha Abramsky is a British-born freelance journalist based in New York City.

THE FREEDOM FORUM:

THE BEST MEDIA CRITICISM MONEY CAN BUY

By Arlene W. Coyles

What impact will Disney's absorption of **ABC** have on news? "Since the news division is one of their crown jewels, it will probably be left alone if not strengthened," says Everette Dennis, executive director of the Freedom Forum Media Studies Center at Columbia University (**Washington Post**, 8/1/95).

What effect did **ABC**'s previous owners at Capital Cities have on the network? "They were masters of good management and knew how to invest money," says the Freedom Forum center's Everette Dennis (**Los Angeles Times**, 8/6/95).

What changes should people expect from the **ABC**/Disney merger? "Most people won't notice any differences at all, although one can't say if there will be subtle differences," says Everette Dennis of the Freedom Forum center (Bergen County [N.J.] **Record**, 8/3/95).

These quotes illustrate how a lavishly funded, determinedly centrist think tank can set the agenda for research and attract attention to itself—and away from other researchers in its field. In a relatively short time, the Freedom Forum Media Studies Center has become the most visible sponsor of research about the media industry, generating far more publicity for itself and its research than any comparable organization.

The Freedom Forum Foundation was established as the Gannett Foundation by Frank Gannett, the owner of a small newspaper chain, to fund charities in cities where Gannett published newspapers. When Gannett died, takeover artist Al Neuharth became the Gannett Corporation's CEO. With the help of Wall Street, Neuharth turned Gannett into the largest and most profitable newspaper chain in the country by emphasizing profits over product, layout over substance and advertisers over readers.

When Neuharth retired from the Gannett Corporation, he walked away with the Gannett Foundation, which owned 10 percent of Gannett's stock, worth approximately $670 million. Neuharth later sold the foundation's stock and changed its name to the Freedom Forum, thereby severing his relationship with the corporation. With that move, "Neuharth in effect stole the foundation from Gannett," reported James Squires, the former editor of the **Chicago Tribune** (*Read All About It!*).

Neuharth turned away from the foundation's traditional charitable giving and instead decided that his Freedom Forum Foundation would spend $35 million annually to "set the agenda on issues involving press freedom and the First Amendment." (**New York Times**, 7/8/91) Immediately after that, the Gannett Foundation Media Center changed its name to the Freedom Forum Media Studies Center.

Despite the constant description of the Freedom Forum Media Studies Center as being "at Columbia University," about the only formal relationship that exists between Columbia and the Forum is the agreement that allows the Forum to rent space on Columbia's campus. The Freedom Forum center is independent of Columbia University's School of Journalism, and director Everette Dennis is not a faculty member at the journalism school.

The Freedom Forum center generates press coverage by sponsoring symposia and conferences, funding research studies, underwriting journalism awards and publishing its own journal and books, which it sends to reporters for free. The center also hosts parties at professional and academic conferences where professors and reporters are wined and dined.

Largely as a result of this well-funded publicity apparatus, the center's director has become a frequently quoted pundit to whom reporters turn for quips, quotes and soundbites about mass media institutions. Since becoming the center's director, Dennis has been quoted hundreds of times in newspapers and magazines, and has appeared on network news programs, **CNN** and the **MacNeil/Lehrer NewsHour**.

Before becoming director, Dennis was virtually ignored by the media. But then, his research was hardly headline-making stuff. His published articles bore such titles as "Puck, the Comic Weekly" (**Journalism History**, Spring/79), "100 Years of Political Cartooning" (**Journalism History**, Spring/74), and "A Profile of Newspaper and Television Reporters in a Metropolitan Setting" (**Journalism Quarterly**, Winter/78), which discovered that journalists were typically white, middle-class and well-educated.

It was through heavy spending that Dennis achieved pundit status. Dennis speaks at the panels and colloquia sponsored by the center, attaches his name to publications that the center publishes, and purchases advertisements that tout him "as a thoughtful and articulate speaker...and an expert on the media and media issues."

Dennis' "thoughtful and articulate" comments, like most of the research that the Freedom Forum center produces, can be tactfully described as industry-friendly. For example, Dennis appeared on the **MacNeil/Lehrer NewsHour** with University of California professor Ben Bagdikian when the Time-Warner merger was announced in June 1989 (6/20/89). Bagdikian criticized the merger for further restricting the diversity of media ownership, creating greater uniformity of opinion among the media and putting too much power in the hands of a few corporate chieftains.

Dennis argued the opposite, claiming that the merger had beneficial effects. "It's been the big companies in this country that have invested over the long-term, that have done the research and development. It's not been the small companies or the independent voices," he said. As for the reduction in the diversity of viewpoints that would result from the merger, Dennis said:

> It seems to me that since about 1920 press critics have made those kinds of claims and that we really haven't seen that come to pass.

There are indeed fewer companies, but there are still a great many companies controlling newspapers, magazines, broadcasting and others. I think what we've seen is journalistic enterprises following general economic trends which has poured greater concentration, fewer firms and larger concentration of activity. Does this diminish freedom of expression and reduce the number of voices? Not at all.

Dennis' statement not only contradicts empirical research on the topic—as documented in Bagdikian's *Media Monopoly*—but it contradicts virtually the only socially significant research article that Dennis co-authored before becoming the Freedom Forum Center's director.

The article, titled "Chain Newspaper Autonomy as Reflected in Presidential Campaign Endorsements" (**Journalism Quarterly**, Autumn/75), found that chain-owned newspapers, such as those owned by Gannett, were more uniform in their presidential endorsements than independently owned newspapers, and were more likely to endorse Republican candidates.

The article concluded that the findings "run counter to the insistence of chain spokesmen that their endorsement policies are independent from chain direction. At an overt level, in terms of formal structural controls, this may be true [that editors are not forced to make endorsements], but at an informal level questions should be raised about the degree to which hiring practices, management procedures and peer pressure push chains toward uniformity of editorial posture."

But by 1995, in the Freedom Forum's newsletter **Communique** (9-10/95), Dennis was comparing the rash of media takeovers to wedding celebrations, enthusing: "These nuptials challenge the deeply held American notion that bigness is bad and diversity is good."

Dennis' other analyses have usually been as industry-friendly as his analysis of mergers. Dennis has defended the practice of paying sources for information. "Everyone's entitled to exploit their intellectual property," he told the **Washington Post** (1/27/94).

When **Newsday** ran a controversial, faked photograph showing ice skating rivals Tonya Harding and Nancy Kerrigan skating together, Dennis said that the complaints about the photo made "much ado about nothing.... As long as [composites] are properly identified, it's not a problem." (**USA Today**, 2/18/94) He said the faked photo was completely different from a "dishonest" video segment aired by **NBC**, which had faked an explosion of a GMC truck's gas tank. **NBC** later apologized for the fakery, stating that it violated journalistic standards.

However, Dennis didn't characterize the video as "dishonest" until after **NBC** apologized. On **CNN**'s **Showbiz Today** (2/9/93), he defended **NBC**, stating that "when you do a test, a consumer test, for television or anybody else, you don't do ordinary wear tests, but tests of extraordinary circumstances on cars—what would happen in the worst of circumstances if someone swerves into a car and hits a gas tank, not what's going to happen on an ordinary day on a Sunday drive." Dennis told the **Boston Globe** (2/9/93) that **NBC** should have informed viewers of the explosion, "but I'm afraid that a lot of television programs that do this sort of thing don't go into a lot of detail because of limited time."

IN DISNEYLAND, JOURNALISM MEANS SAYING YOU'RE SORRY

By Jeff Cohen and Norman Solomon

Within a few weeks of the Walt Disney Company announcing its takeover of ABC, the TV network was already living up to the Mickey Mouse image.

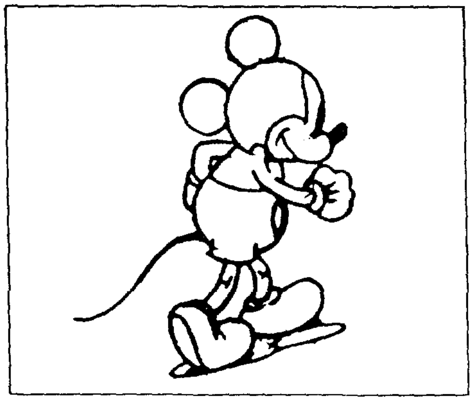
In a cowardly capitulation, ABC settled a defamation suit brought by cigarette giants Philip Morris and R.J. Reynolds. ABC used its national airwaves to apologize to the tobacco companies not once but three times—including on Monday Night Football. The network also agreed to pay millions of dollars to cover the legal bills of the tobacco lawyers.

For journalists, ABC's surrender was a white flag seen 'round the world—dramatizing the awesome power that big-money firms can wield with lawsuits and other threats against investigative reporting. It also dramatized the weakened position of working journalists at today's huge media companies, which are expanding through merger and acquisition while news departments shrink.

Let's face it: To most owners of national media, serious journalism is a nuisance. It costs money, takes time and doesn't always deliver top ratings. And when your staff engages in tough reporting about corporate interests, they can retaliate.

Sometimes those interests are major sponsors. Philip Morris can't advertise cigarettes on the air, but it does hawk dozens of products from its Kraft General Foods and Miller Brewing subsidiaries. Along with filing suit against ABC, Philip Morris also threatened to withdraw advertising on that network—an annual tab of $100 million. R.J. Reynolds is a subsidiary of RJR Nabisco, another leading TV advertiser.

The $10 billion defamation suit stemmed from an in-depth and overwhelmingly accurate Feb. 28, 1994, report on ABC's Day One program, documenting how cigarette companies "control levels of nicotine"—the ingredient that keeps smokers addicted.



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Reporter John Martin pointed out that much of the nicotine naturally in tobacco is removed during processing—and is added back into cigarettes in the form of tobacco extract. According to a former R. J. Reynolds manager, it can be added in virtually any strength.

Martin got a Reynolds scientist to admit that the company could produce cigarettes with all the nicotine removed. "How tobacco companies manipulate nicotine and their reluctance to take it out," concluded Martin, "strongly suggests that they want smokers to get nicotine."

The ABC segment quoted from a once-secret 1972 memo in which a Philip Morris official wrote: "Think of the cigarette pack as a storage container for a day's supply of nicotine. Think of the cigarette as a dispenser for a dose unit of nicotine."

The trial, which might have shed needed light on the secretive cigarette-manufacturing process, was likely to focus on one disputed word: reporter Martin's statement that cigarettes are "spiked" with nicotine. But that word was factually explained in full context by ABC's report.

We haven't found a single ABC journalist who supports the network's apologetic settlement of the suit. To win this defamation case, the tobacco firms would have had the difficult task of proving recklessness or dishonesty by ABC journalists. Why settle, even in a tobacco-friendly court in Richmond, when the broadcast was fair and accurate?

Journalists had reason to see a sell-out in a management apology—"we should not have reported that Philip Morris and Reynolds add significant amounts of nicotine from outside sources"—repenting for claims ABC's news story never made. Reporter Martin and producer Walt Bogdanich refused to sign the settlement.

Given that the well-documented Day One report helped prod the Food and Drug Administration to consider action against the tobacco industry for dispensing a drug, it made some sense for cigarette makers to file suit as a P.R. counterattack. The ABC apology gave them a huge propaganda victory, which they exploited in full-page ads in major publications across the country.

In the wake of ABC's surrender, the New York Times (8/28/95) reported that the lawsuit was part of a new tobacco industry strategy aimed at influencing news coverage. By suing ABC, the Times' Mark Landler reported, "Philip Morris and other giant tobacco companies have served notice that they will draw on their formidable legal resources to combat any news media report that they deem unfair or inaccurate."

But why did ABC settle? One goal was to smooth the way for the Disney merger, network sources said. As the Wall Street Journal reported (8/22/95), ABC general counsel and vice president Alan Braverman (the driving force behind the network's cave-in) had told Disney's lawyers during the merger negotiations that he believed ABC and Philip Morris "could work out a settlement."

ABC's capitulation will probably invite more lawsuits by powerful interests with the money to intimidate. It could also make mainstream journalists a bit more shy about investigating deadly enterprises like the tobacco industry. And that's not Mickey Mouse. ❑

This article was adapted from Jeff Cohen and Norman Solomon's syndicated column, which is available to daily papers through Creators Syndicate.

Misgivings Over a Media Merger

The Federal Trade Commission's approval of the acquisition of Turner Broadcasting by Time Warner will offer consumers no major benefit and could in fact harm them. Under narrow antitrust law, the commission may have had little choice but to approve the takeover. That is unfortunate, because the merger might well lead to higher cable prices and a smaller choice of programs.

Time Warner is the nation's second-largest cable operator. The largest, T.C.I., owns a part of Turner Broadcasting and will thus now own about 9 percent of Time Warner. One risk is that the merger will weaken the incentive for the cable industry's two giants to compete by offering top dollar for the wares of independent programmers.

Another problem is created by the fact that the merged company will own key cable programs that every cable system needs to offer customers. Time Warner owns all or part of the HBO movie channel, Warner Brothers studio and Cinemax, while Turner owns CNN, TNT, Turner Classic Movies and other popular cable programs. The danger is that cable operators will be forced to buy from the merged company, putting Time Warner in position to boost prices for its programs.

The commission, to its credit, recognized these threats and negotiated unprecedented conditions for its approval. The settlement agreement requires T.C.I. to remain a passive investor, insulated from Time Warner decisions. The commission blocked T.C.I.'s plan to buy Turner programs at a steep discount — a plan that could have made it hard for independent programmers to find space on T.C.I., which accounts for more than a quarter of all cable customers. The commission also insisted that Time Warner sell its programs to rival cable operators at fair market rates.

Though sensible, the restrictions may be beyond the commission's ability to enforce. The commission says it got the best deal it could. If it tried to block the merger, and Time Warner appealed, courts would decide the issue on narrow antitrust grounds, which favor the companies and might allow them to merge without the consumer protections that the commission negotiated.

The irony is that the Federal Trade Commission's chairman, Robert Pitofsky, made his academic reputation arguing that antitrust law is inadequate for media mergers because it does *not* assure the diversity of news and entertainment that is central to the health of a democracy. But special scrutiny for media mergers is Mr. Pitofsky's private thought, not part of current law.

There is an unfortunate taint of money politics surrounding the decision. Time Warner is one of the Democratic and Republican parties' largest contributors. Seagram, the largest shareholder in Time Warner, separately contributed over $600,000 to the Democrats over a recent 18-month period, the largest of any corporate contributor. There is no reason to doubt Mr. Pitofsky's word that no White House official intervened. Yet the huge corporate contributions create an impression that money talks.

The commission tried hard to make the merger as good for consumers as the law would allow. It is not clear, however, that its effort is good enough.

Editorial Notebook

Merger NYT 9/16/96

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To the Editor: